

Message Text

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PAGE 01 STATE 030470
ORIGIN EB-08

INFO OCT-01 EA-07 ISO-00 L-03 TRSE-00 COME-00 /019 R

DRAFTED BY EB/IFD/OIA:DAGRANT:ME
APPROVED BY EA:EHHEGINBOTHAM
EB/IFD/OIA:RJSMITH
EA/IMS:ADORNHEIM
L/EA:PNORTON (DRAFT)
TREASURY:RBANQUE (SUBS)
COMMERCE:GMFELDMAN (SUBS)
-----101929Z 128484 /42
O 101913Z FEB 77
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA IMMEDIATE

C O N F I D E N T I A L STATE 030470

E.O. 11652: GDS

TAGS: EINV, ID

SUBJECT: P. T. BAUD

REF: JAKARTA 1217

1. DEPARTMENT HAS RECEIVED DOCUMENTS MENTIONED REFTEL. AFTER REVIEWING CONTENTS, DEPARTMENT NOW FEELS THAT IT MAY BE APPROPRIATE FOR EMBASSY TO MAKE KNOWN TO GOI OUR CONTINUING INTEREST IN HAVING BAUD CASE RESOLVED. AS EMBASSY AWARE, CIEP EXPROPRIATION GROUP EARLIER FOUND THAT THERE WERE SUFFICIENT QUESTIONS SURROUNDING MAJOR ISSUES OF SEA OIL CLAIM TO LEAD GROUP TO CONCLUDE SANCTIONS UNDER APPLICABLE U.S. LEGISLATION WERE NOT INDICATED AT THAT TIME.

2. IN APRIL 1976 SEA OIL'S ATTORNEY HAD BEEN ADVISED
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THAT IN VIEW OF WIDE DISPARITY BETWEEN POSITIONS OF CLAIMANTS AND GOI AND IN VIEW UNRESOLVED LEGAL QUESTIONS, ARBITRATION MIGHT BE USEFUL TO BREAK APPARENT IMPASSE. IN PARTICULAR, IT WAS SUGGESTED SEA OIL CONSIDER RESORT TO WORLD BANK'S INTERNATIONAL CENTER FOR SETTLEMENT OF INVESTMENT DISPUTES (ICSID), WHICH INDONESIA JOINED IN 1968. SEA OIL'S INITIAL RESPONSE WAS THAT ARBITRATION

WOULD NOT BE ACCEPTABLE TO THEM IN VIEW OF LONG DELAYS

THAT WOULD INEVITABLY BE INVOLVED. SEA OIL HAS NOW SEEMINGLY CHANGED ITS MIND. WE MUST BE PREPARED TO FACE POSSIBILITY THAT UNSUCCESSFUL CONCILIATION AND ARBITRATION ATTEMPTS MAY STRENGTHEN SEA OIL'S CONTENTION TO CONGRESS THAT GOI REFUSES TO PROVIDE QUOTE PROMPT, ADEQUATE, AND EFFECTIVE UNQUOTE COMPENSATION OR EVEN TO TAKE APPROPRIATE PROCEDURAL STEPS TO RESOLVE DIFFERENCES. THUS, DEPARTMENT IS CONCERNED THAT DISREGARD OR UNQUALIFIED REJECTION BY GOI OF AN ARBITRATION OFFER MAY REINFORCE SEA OIL ALLEGATION OF GOI INTRANSIGENCE AND LEND CREDENCE TO ITS CALL FOR IMPOSITION OF STATUTORY

SANCTIONS. IT WOULD BE DIFFICULT TO ARGUE THAT SEA OIL CONCILIATION/ARBITRATION OFFERS ARE LESS THAN SINCERE, OR MAKE ISSUE OF ICC SECRETARY GENERAL'S UNFORTUNATE AND PREEMPTORY TONE IN HIS JANUARY 14 LETTER TO WARDHANA.

3. ICC LETTER TO WARDHANA REQUESTS A RESPONSE WITHIN 30 DAYS OF RECEIPT. WE ARE CONCERNED THAT GOI MAY SIMPLY REJECT THE ARBITRATION OFFER WITHIN THIS TIME PERIOD, NEGATING THE VALUE OF ANY APPROACH BY US. WE BELIEVE, THEREFORE, THAT IT WOULD BE ADVISABLE FOR EMBASSY TO TAKE THE INITIATIVE IN THE NEAR FUTURE ON THIS QUESTION AND COMMUNICATE TO APPROPRIATE GOI OFFICIAL(S) THAT USG RETAINS INTEREST IN BAUD CASE BECAUSE OF POTENTIALLY APPLICABLE US STATUTES, THAT SEA OIL HAS FOR FIRST TIME ACCEPTED IDEA OF THIRD-PARTY INVOLVEMENT, AND THAT USG
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WOULD FIND IT AWKWARD TO EXPLAIN GOI NEGLECT OR REJECTION OF SEA OIL ARBITRATION OFFER, UNLESS REJECTION WERE ACCOMPANIED BY SOME ALTERNATIVE, POSITIVE GOI RESPONSE.

4. IN VIEW OF GOI SENSITIVITIES ON BAUD CASE, DEPARTMENT IS CERTAINLY DISPOSED TO LEAVE MANNER OF APPROACH TO GOI TO EMBASSY'S JUDGMENT. IF EMBASSY DOES NOT AGREE THAT OUR TAKING THE INITIATIVE IS APPROPRIATE OR NECESSARY AT THIS TIME, WE WOULD APPRECIATE EMBASSY'S COMMENTS AND SUGGESTIONS FOR POSSIBLE ALTERNATIVE ACTION.

5. IN ANY CASE, IF EMBASSY CAN CONVENIENTLY OBTAIN COPY OF WARDHANA'S NOV. 30 LETTER RESPONDING TO EARLIER SEA OIL OFFER TO USE ICC CONCILIATION SERVICES, DEPARTMENT WOULD APPRECIATE HAVING TEXT.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INVESTMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 10-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE030470
Document Source: CORE
Document Unique ID: 00
Drafter: DAGRANT:ME
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770048-0536
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770253/aaaabvbf.tel
Line Count: 113
Litigation Code IDs:
Litigation Codes:
Litigation History:
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Message ID: 704774c8-c288-dd11-92da-001cc4696bcc
Office: ORIGIN EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
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Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 JAKARTA 1217
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 10-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3352142
Secure: OPEN
Status: NATIVE
Subject: P. T. BAUD
TAGS: EINV, ENRG, ID, PT BAUD
To: JAKARTA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/704774c8-c288-dd11-92da-001cc4696bcc
Review Markings:
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